

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

RYAN D. HOBBS,

Plaintiff,

:

Case No. 1:17-cv-441

- vs -

District Judge Michael R. Barrett

Magistrate Judge Michael R. Merz

DEREK FAULKNER, et al.,

Defendants.

:

**REPORT AND RECOMMENDATIONS ON MOTION FOR
SANCTIONS**

This *pro se* action under 42 U.S.C. § 1983 is before the Court on Plaintiff's Motion for Sanctions (ECF No. 142). In it Plaintiff seeks sanctions against the Defendants on the basis of characterizations of Defendants' conduct which the Court has repeatedly refused to accept. Asking the Court to change its mind and modify its final judgment so as to impose sanctions is yet another effort of Plaintiff to undermine the finality of this Court's judgment.

Judge Barrett entered final judgment in this case on March 29, 2019, and Plaintiff appealed (ECF Nos. 75, 76, 77). That appeal remains pending before the Sixth Circuit in its Case No. 19-3303. Absent a reversal and remand from the circuit court, this Court's judgment remains final. Plaintiff erroneously argues the dismissal was without prejudice (Motion, ECF No. 142, PageID 2057). In fact, both Magistrate Judge Reports and Recommendations adopted by Judge Barrett recommended dismissal with prejudice. But regardless of whether the judgment was with or

without prejudice, it was a final judgment; otherwise Plaintiff would not have been entitled. As Plaintiff has been repeatedly told, so long as the appeal remains pending, this Court lacks jurisdiction to modify it.

On that basis it is respectfully recommended that the Motion for Sanctions be denied.

March 31, 2020.

s/ *Michael R. Merz*
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Because this document is being served by mail, three days are added under Fed.R.Civ.P. 6. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal.